

CHAPTER Tax 100 ORGANIZATION

Readopt with Amendment Tax 101, eff 9-24-07 (Document #8985), to read as follows:

PART Tax 101 SCOPE AND APPLICABILITY OF RULES

Tax 101.01 Applicability and Interpretation.

(a) These rules are organized into rules applicable to all matters before the board and rules applicable only to certain matters. Each part begins with a section on the scope and applicability of that part.

(b) These rules shall be interpreted to achieve consistent, just and expeditious disposition of all matters before the board in accordance with the New Hampshire Constitution, the applicable statutes and case law ~~and these rules.~~

Tax 101.02 Absence of a Rule. These rules are not a limitation on the board's statutory duties or powers. The absence of a rule does not limit the board's power to act pursuant to its statutory authorization.

PART Tax 102 DEFINITIONS

Readopt Tax 102.01 – Tax 102.03, eff. 9-24-07 (Document #8985), to read as follows:

Tax 102.01 “Abatement Application” means the written request filed by a taxpayer with the municipality, pursuant to RSA 76:16 or RSA 79-A:10, seeking a tax abatement.

Tax 102.02 “Accident, mistake or misfortune” means something outside the party's own control and not due to neglect, or something that a reasonably prudent person would not be expected to guard against or provide for.

Tax 102.03 “Agent” means a taxpayer's or condemnee's representative who is not an attorney.

Readopt with amendment Tax 102.04 eff 9-24-07 (Document #8985) to read as follows:

Tax 102.04 “Appeal Document” means the written property tax appeal, exemption appeal, current use or conservation restriction appeal, DRA appeal, equalized valuation appeal, timber tax appeal, excavation tax appeal, LUCT appeal or discretionary easement and revitalization appeal, **betterment assessment appeal or an appeal of a residence located in an industrial or commercial zone** filed with the board ~~by an appellant/taxpayer.~~

Readopt and renumber Tax 102.07, eff 9-24-07 (Document #8985), as Tax 102.05 to read as follows:

Tax 102.0705 “Appraisal” means a written opinion of value of a specific property that relies on the comparative sales, income or cost approach and any tax assessment report that relies on assessment information or comparison. A sales or market analysis for listing a property for sale is not included in this definition. A cost calculation sheet by itself is not included in this definition.

Adopt Tax 102.06 to read as follows:

Tax 102.06 “Betterment Assessment Appeal” means an RSA 231:32 appeal of a betterment assessment.

Readopt and renumber Tax 102.08 and Tax 102.09, eff 9-24-07 (Document #8985), as Tax 102.07 and Tax 102.08 to read as follows:

Tax 102.~~08~~**07** "Board" means the New Hampshire board of tax and land appeals.

Tax 102.~~09~~**08** "Clerk" means the clerk of the board or the board designated deputy clerk.

Repeal Tax 102.10 eff 9-24-07 (Document #8985) as follows:

~~Tax 102.10 "Communications" means all exchanges of information, whether in person, in writing or by any electronic means.~~

Readopt with amendment and renumber Tax 102.11, eff 9-24-07 (Document #8985), as Tax 102.09 to read as follows:

Tax 102.~~11~~**09** "Comparable" means any property ~~or sale~~ relied upon by any party for any reason and presented to the board as part of any proceeding and includes:

(a) Properties ~~and sales~~ used for direct comparison to show similarity or dissimilarity to the appealed property and properties ~~and sales~~ used in appraisals; and

(b) Properties ~~or sales~~ used to derive ~~units of comparison or other~~ comparative data such as market rents, expenses or costs. Properties ~~or sales~~ used in statistical reports are not included in this definition and are covered under Tax 201.33.

Readopt and renumber Tax 102.12 and Tax 102.13, eff 9-24-07 (Document #8985), as Tax 102.10 and Tax 102.11 to read as follows:

Tax 102.~~12~~**10** "Condemnee" means "condemnee" as defined in RSA 498-A:2, II.

Tax 102.~~13~~**11** "Condemnor" means "condemnor" as defined in RSA 498-A:2, III.

Readopt and renumber Tax 102.14, eff 9-8-09 (Document #9537), as Tax 102.12 to read as follows:

Tax 102.~~14~~**12** "Costs" means all fees, witness fees, attorney's fees and expenses awardable by the board pursuant to RSA 21-J:28-b, VI, RSA 71-B:9, RSA 76:16-a, RSA 76:17-b, RSA 498-A:9-a, and 9-b, and RSA 498-A:26-a, and 26-b.

Readopt and renumber Tax 102.15 and Tax 102.16, eff 9-24-07 (Document #8985), as Tax 102.13 and Tax 102.14 to read as follows:

Tax 102.~~15~~**13** "Current Use Appeal" means an RSA 79-A:9 appeal from a municipality's decision on a taxpayer's RSA 79-A:5 current use application or RSA 79-B:4 conservation restriction application.

Tax 102.~~16~~**14** "DRA" means the New Hampshire department of revenue administration.

Readopt with amendment and renumber Tax 102.17, eff 9-24-07 (Document #8985), as Tax 102.15 to read as follows:

Tax 102.~~17~~**15** "DRA Appeal" means an ~~RSA 21-J:28-b, IV~~ appeal of a state tax determined by DRA.

Readopt and renumber Tax 102.18 and Tax 102.19, eff 9-24-07 (Document #8985), as Tax 102.16 and Tax 102.17 to read as follows:

Tax 102.186 “Declaration” means the declaration of taking, which is the document that begins an eminent domain proceeding.

Tax 102.197 “Default” means a party's initial failure to comply, within the time set, with any board request or order or with any board rule.

Readopt with amendment and renumber Tax 102.20, eff 9-24-07 (Document #8985), as Tax 102.18 to read as follows:

Tax 102.2018 “Discretionary Easement and Revitalization Appeal” means an appeal from a municipality’s decision on an RSA 79-C discretionary easement, an RSA 79-D discretionary preservation easement, ~~or an RSA 79-E community revitalization tax relief incentive,~~ **an RSA 79-F Farm Structures and Land Under Farm Structures or an RSA 79-G Qualifying Historic Buildings appeal.**

Readopt and renumber Tax 102.21 and Tax 102.22, eff 9-24-07 (Document #8985), as Tax 102.19 and 102.20 to read as follows:

Tax 102.2419 “Document” means any written material filed with the board, including all appeals, petitions, motions, letters and memoranda, excluding exhibits submitted at a hearing.

Tax 102.220 “Equalized Valuation Appeal” means an RSA 71-B:5, II appeal by a municipality of its equalized valuation as determined by the commissioner of revenue administration.

Readopt with amendment and renumber Tax 102.23, eff 9-24-07 (Document #8985), as Tax 102.21 to read as follows:

Tax 102.231 “Eminent Domain Proceeding” means any condemnation filed with the board under RSA 498-A involving one ~~or more tract of property or~~ tracts of property held by the same owner.

Readopt and renumber Tax 102.24, eff 9-24-07 (Document #8985), as Tax 102.22 to read as follows:

Tax 102.242 “Excavation Tax Appeal” means an RSA 72-B:13 appeal of an excavation tax assessed under RSA 72-B:4.

Readopt with amendment and renumber Tax 102.25, eff 9-24-07 (Document #8985), as Tax 102.23 to read as follows:

Tax 102.253 “Exemption Appeal” means an appeal from a municipality's decision on a taxpayer's application for exemption, ~~or credit or deferral~~ under RSA 72 ~~in accordance with RSA 72:34 a.~~

Readopt and renumber Tax 102.26, eff 9-24-07 (Document #8985), as Tax 102.24 to read as follows:

Tax 102.264 “Ex Parte Communication” means any direct or indirect communication with the board or any board member concerning a pending matter when all parties to the proceeding are not present or when all parties have not been sent a copy of any written communication in accordance with RSA 541-A:36.

Readopt with amendment and renumber Tax 102.27, eff 9-24-07 (Document #8985), as Tax 102.25 to read as follows:

Tax 102.275 “Exhibit” means any ~~non-testimonial evidence document~~ submitted as evidence either at a hearing, with a motion, expedited brief or memorandum or as part of any written submission of evidence.

Readopt and renumber Tax 102.28 and Tax 102.29, eff 9-24-07 (Document #8985), as Tax 102.26 and Tax 102.27 to read as follows:

Tax 102.286 “File” means:

(a) The date a declaration is determined to be in compliance with RSA 498-A:5, after receipt and review by the board; or

(b) The date an appeal document, abatement application or other document is:

(1) Hand delivered and received by the proper filing office;

(2) Postmarked by the United States Postal Service in accordance with RSA 80:55; or

(3) Marked as receipted for delivery by a courier or overnight service such as Federal Express or United Parcel Service.

Tax 102.297 “Final Default” means a party's failure to cure a default after having been advised by the board of the default and after having been provided an opportunity to cure the default within a set time.

Repeal Tax 102.30, eff 9-24-07 (Document #8985), as follows:

~~Tax 102.30 “Inventory” means the RSA 74:4 inventory form.~~

Readopt with amendment and renumber Tax 102.31, eff 9-24-07 (Document #8985), as Tax 102.28 to read as follows:

Tax 102.3128 “Leave” means ~~board~~ **written** permission granted **by the board** after the party ~~requesting permission~~ has filed a motion for leave.

Readopt and renumber Tax 102.32, eff 9-24-07 (Document #8985), as Tax 102.29 to read as follows:

Tax 102.3229 “LUCT Appeal” means an RSA 79-A:10 appeal of a land use change tax assessed under RSA 79-A:7.

Readopt with amendment and renumber Tax 102.33, eff 9-24-07 (Document #8985), as Tax 102.30 to read as follows:

Tax 102.330 “Month” means ~~“calendar month”~~ as defined in RSA 21:8.

Readopt and renumber Tax 102.34, eff 9-24-07 (Document #8985), as Tax 102.31 to read as follows:

Tax 102.341 “Municipal Consultant” means a person or entity hired by a municipality to represent its interest in a proceeding.

Readopt with amendment and renumber Tax 102.35, eff 9-24-07 (Document #8985) as Tax 102.32 to read as follows:

Tax 102.352 “Municipal Market Data Survey” means any document prepared by or for a municipality at the time of a reassessment analyzing any market data; **to arrive at base values**, including but not limited to sales, leases, income and expenses; ~~to arrive at base values used in the reassessment.~~

Readopt with amendment and renumber Tax 102.06, eff 9-24-07 (Document #8985), as Tax 102.33 to read as follows:

Tax 102.0633 ~~Appellee~~ “Municipality” means the entity, including a town, city or county against whom the tax appeal was filed.

Readopt and renumber Tax 102.36, eff 9-24-07 (Document #8985), as Tax 102.34 to read as follows:

Tax 102.364 “Notice of Tax Date” means "date of notice of tax" as defined in RSA 76:1-a, II and III for property tax appeals and LUCT appeals, and as defined in RSA 72:1-d, II for exemption appeals.

Readopt with amendment and renumber Tax 102.37 and Tax 102.38, eff 9-24-07 (Document #8985), as Tax 102.35 and Tax 102.36 to read as follows:

Tax 102.375 “Party” means the person or entity designated **by the board** as a party in any matter before ~~the it. board and includes any party's~~ **An authorized** agent or attorney **may appear on behalf of a party.**

Tax 102.386 “Property Tax Appeal” means an appeal involving ad valorem property taxes and includes claims of disproportionate assessment under **RSA 51:7**, RSA 76, RSA 71-B:16, RSA 75:14 and RSA 81:5.

Readopt and renumber Tax 102.39 and Tax 102.40, eff 9-24-07 (Document #8985), as Tax 102.37 and Tax 102.38 to read as follows:

Tax 102.397 “Statistical Report” means any document analyzing market data, assessments, taxes or such other matters and relied upon for statistical purposes only and not for property specific purposes. Property specific reports and Municipal Market Data Surveys are not included in this definition.

Tax 102.4038 “Tax Appeals” means any appeal from any state or local tax.

Readopt with amendment and renumber Tax 102.05, eff 9-24-07 (Document #8985), as Tax 102.39 to read as follows:

Tax 102.4139 ~~Appellant~~ “Taxpayer” means the person or entity that filed an appeal, and for property tax appeals and LUCT appeals, this term includes a person aggrieved pursuant to RSA 76:16, RSA 76:16-a or RSA 79-A:10, I.

Readopt and renumber Tax 102.41, eff 9-24-07 (Document #8985), as Tax 102.40 to read as follows:

Tax 102.4140 “Timber Tax Appeal” means an RSA 79:8 appeal of a timber tax assessment.

Readopt Tax 103.01, eff 9-24-07 (Document #8985), cited and to read as follows:

PART Tax 103 DESCRIPTION OF BOARD

Tax 103.01 Board's Duties and Powers.

- (a) The board's general duties and powers are stated in RSA 71-B.
- (b) Pursuant to RSA 76:16-a, RSA 71-B:11 and RSA 21-J:28-b, IV, the board has concurrent, appellate jurisdiction with the superior court over all appeals concerning state and local taxation. Parties may appeal the board's decision to the supreme court under RSA 541:6.
- (c) Pursuant to RSA 71-B:16, II, the board has broad jurisdiction to act on its own initiative to review the legality and correctness of all property tax matters, including current use. This review includes taxes previously assessed in accordance with Appeal of Wood Flour, Inc., 121 N.H. 991, 994 (1981). Parties may appeal the board's decision to the supreme court under RSA 541:6.
- (d) Pursuant to RSA 71-B:16 and RSA 79-A:12, the board has exclusive, original jurisdiction over petitions for reassessments of individual properties by someone other than the property owner and over petitions for reassessment of all or a segment of properties within a municipality. Parties may appeal the board's decision to the supreme court under RSA 541:6.
- (e) Pursuant to RSA 71-B:5, II, the board has exclusive jurisdiction of challenges to the equalization valuation performed by the DRA pursuant to RSA 21-J:3, XIII. Parties may appeal the board's decision to the supreme court under RSA 541:6.
- (f) Pursuant to RSA 498-A:3, the board has exclusive, original jurisdiction over all eminent domain proceedings. Parties may appeal for a trial de novo to the superior court under RSA 498-A:27.

Readopt with amendment Tax 103.02, eff 9-24-07 (Document #8985) to read as follows:

Tax 103.02 Board's Operation.

- (a) Location. The board's offices and hearing room are in the Governor Hugh J. Gallen State Office Park, 107 Pleasant Street, Johnson Hall, Concord, NH 03301. The board's telephone number is (603) 271-2578 and website is <http://www.nh.gov/btla>.
- (b) The office is open on all legal state work days from 8:00 a.m. to 4:~~3000~~ p.m.

Readopt Tax 104, eff. 9-24-07 (Document #8985), to read as follows:

PART Tax 104 REQUESTS FOR INFORMATION

Tax 104.01 Requests for Information.

- (a) This section shall apply to any person intending to submit requests for information such as copies of forms/rules, general questions or the status of a file. This rule shall not apply to requests for rehearing/clarification, which is governed by Tax 201.37.
- (b) A request for information shall:
 - (1) Be in writing and submitted to the board's clerk;
 - (2) Specifically cite the information requested;

- (3) Be accompanied with a self-addressed, stamped envelope, if applicable; and
 - (4) Be accompanied with the proper copying fees under Tax 501, if applicable.
- (c) A party may request information in person at the board's offices. Requests that warrant additional time to compile shall be in writing, allowing sufficient time for mailing.